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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

		Application Number	10/809,280
		Filing Date	March 25, 2004
		First Named Inventor	James Gharib
		Art Unit	3739
		Examiner Name	TBD
Total Number of Pages in This Submission	48	Attorney Docket Number	071US1

**ENCLOSURES (Check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input checked="" type="checkbox"/> Response to Missing Parts/Incomplete Application <input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input checked="" type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  <b>Remarks</b> 1. Replacement Drawings 2. Executed Declaration 3. Return Postcard
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**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	Jonathan Spangler
Signature	
Date	August 9, 2004

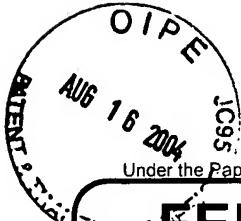
**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Jonathan Spangler
Signature	
Date	August 9, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

<b>TOTAL AMOUNT OF PAYMENT</b>	<b>(\$)</b> 450.00
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**Complete if Known**

Application Number	10/809,280
Filing Date	March 25, 2004
First Named Inventor	James Gharib
Examiner Name	N/A
Art Unit	3739
Attorney Docket No.	071US1

**METHOD OF PAYMENT (check all that apply)**
 Check  Credit card  Money Order  Other  None

 Deposit Account:

Deposit Account Number	50-2040
Deposit Account Name	NuVasive, Inc.

The Director is authorized to: (check all that apply)

 Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) or any underpayment of fee(s)  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.
**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity	Fee Code (\$)	Fee	Small Entity	Fee Code (\$)	Fee	Fee Description	Fee Paid
1001	770	2001	385			Utility filing fee	385.00
1002	340	2002	170			Design filing fee	
1003	530	2003	265			Plant filing fee	
1004	770	2004	385			Reissue filing fee	
1005	160	2005	80			Provisional filing fee	
<b>SUBTOTAL (1)</b>		<b>(\$)</b> 385.00					

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims	12	-20** =	0	X		=	0
Independent Claims	1	- 3** =		X		=	0
Multiple Dependent							

Large Entity	Fee Code (\$)	Fee	Small Entity	Fee Code (\$)	Fee	Fee Description	
1202	18	2202	9			Claims in excess of 20	
1201	86	2201	43			Independent claims in excess of 3	
1203	290	2203	145			Multiple dependent claim, if not paid	
1204	86	2204	43			** Reissue independent claims over original patent	
1205	18	2205	9			** Reissue claims in excess of 20 and over original patent	
<b>SUBTOTAL (2)</b>		<b>(\$)</b> 0					

\*\*or number previously paid, if greater; For Reissues, see above

**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code (\$)	Fee	Fee Code (\$)	Fee	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	65.00
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510*	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

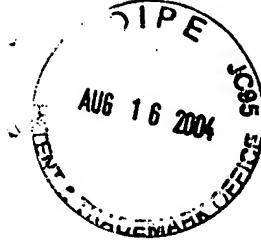
**SUBTOTAL (3)** **(\$)** 65.00

SUBMITTED BY					(Complete if applicable)	
Name (Print/Type)	Jonathan Spangler	Registration No. (Attorney/Agent)	40,182	Telephone	858-243-0029	
Signature				Date	August 9, 2004	

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

This collection of information is required by 37 CFR 1.17 and 1.21. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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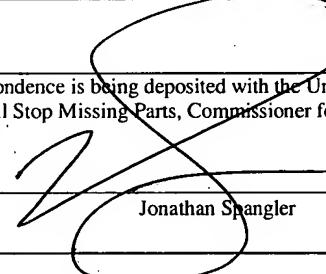
**PATENT**  
Application Serial No. 10/809,280  
Attorney Ref. No. 071US1

**IN THE UNITED STATES PATENT AND TRADEMARK**

In re: Patent Application of )  
James Gharib, et al. )  
App. Ser. No. 10/809,280 ) Group Art Unit: 3739  
Filed: March 25, 2004 ) Examiner: To be determined  
For: SYSTEM AND METHODS FOR )  
PERFORMING PROCEDURES )  
AND ASSESSMENTS )

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 9, 2004:

Signature: 

Jonathan Spangler

**RESPONSE TO NOTICE TO FILE MISSING PARTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to a Notice to File Missing Parts mailed on June 9, 2004, having a two-month period for response that expires August 9, 2004, the applicant respectfully submits the following:

- (A) A copy of the Notice to File Missing Parts;
- (B) A signed declaration as required by the Notice to File Missing Parts;
- (C) An executed Power of Attorney on behalf of deceased inventor's estate;
- (D) Replacement drawings 1-35 on Replacement Sheets 1-35 as required by the Notice to File Missing Parts; and
- (E) Fee transmittal authorizing payment of \$65.00 fee for the late filed declaration and \$385.00 fee for the missing statutory basic filing fee, for a total of \$450.00.

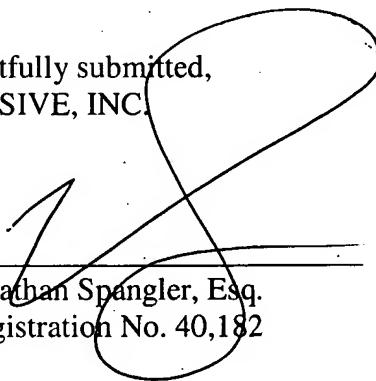
Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 have been submitted as required in the Notice to File Missing Parts. The drawings as originally submitted were not acceptable because at least one drawing (Fig. 23) was not labeled "Fig." with a consecutive Arabic numeral, and several of the drawings were not electronically reproducible (e.g. Figs. 20, 21, 24, 27). The replacement drawings submitted herewith have not only corrected these deficiencies, but also improved the quality of the remaining drawings. In particular, call-out numerals and Figure numbers, previously hand-written, have been replaced with type written counterparts for clarity. Other than these cosmetic changes, the figures themselves have not been altered, and no new matter has been entered.

Furthermore, no other fees are deemed necessary at this time. However, in the event that there are any additional fees to be charged or payments to be credited, the applicant hereby request that any charges or credits be made to Deposit Account No.: 50-2040 for Customer No.: 30,328. In the event that there are any questions concerning the remarks above or the application in general, the Examiner is cordially invited to telephone the undersigned attorney so that

PATENT  
Application Serial No. 10/809,280  
Attorney Ref. No. 071US1

prosecution may be expedited.

Respectfully submitted,  
NUVASIVE, INC.

By:   
Jonathan Spangler, Esq.  
Registration No. 40,182

10065 Old Grove Road  
San Diego, CA 92131  
Tel.: (858) 243-0029.

August 9, 2004



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/809,280	03/25/2004	James Gharib	80100.071US1

## CONFIRMATION NO. 6044

30328  
 NU VASIVE, INC.  
 10065 OLD GROVE ROAD  
 SAN DIEGO, CA 92131

## FORMALITIES LETTER



\*OC000000012909142\*

Date Mailed: 06/09/2004

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

## FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.  
*Applicant must submit \$ 385 to complete the basic filing fee for a small entity.*
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
  - More than one figure is present and each figure is not labeled "Fig." with a consecutive Arabic numeral (1, 2, etc.) or an Arabic numeral and capital letter in the English alphabet (A, B, etc.)(see 37 CFR 1.84(u)(1)). See Figure(s) 23.
  - The drawings submitted to the Office are not electronically reproducible. Drawing sheets must be submitted on paper, which is flexible, strong, white, smooth, non-shiny, and durable (see 37 CFR 1.84(e)). See Figure(s) 20, 21, 24, 27.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is \$450 for a Small Entity

- \$385 Statutory basic filing fee.
- \$65 Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

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*A copy of this notice **MUST** be returned with the reply.*

*h* *+*  
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE